

**RESOLUTION 2015-019**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS TO RESCIND RESOLUTION 2002-175: COMMUNITY BENEFIT POLICY; RESOLUTION 1994-78: STANDARDS FOR OUTDOOR RESTAURANT SEATING; AND RESOLUTION 1995-105: INTERIM POLICIES FOR DEVELOPMENT APPLICATIONS ALONG LOS GATOS BOULEVARD FROM SPENCER AVENUE TO ROUTE 85**

**WHEREAS**, the Town Council is responsible for establishing municipal policies that provide clear direction for process and procedures by which the Council and staff shall conduct business and activities; and

**WHEREAS**, examples of these policies include the Town Code, Town Council Policies, General Plan, Design Guidelines, and Area Plans; and

**WHEREAS**, the many benefits of having established policies includes greater consistency as well as more government transparency and accessibility by the public, the Council and staff; and

**WHEREAS**, the Policy Committee reviewed the following three Council Policies and recommended the rescission of all three at its February 26, 2015 meeting: Standards for Outdoor Restaurant Seating (established by Resolution 1994-78); Community Benefit Policy (established by Resolution 2002-175); and Interim Policies for Development Applications along Los Gatos Boulevard from Spencer Avenue to Route 85 (established by Resolution 1995-105); and

**WHEREAS**, these Council Policies have been deemed obsolete, redundant and/or incorporated into other existing Council Policies.

**NOW, THEREFORE, BE IT RESOLVED THAT**, the Town Council of the Town of Los Gatos does hereby rescind Resolution 2002-175: Community Benefit Policy; Resolution 1994-78: Standards for Outdoor Restaurant Seating; and Resolution 1995-105: Interim Policies for Development Applications along Los Gatos Boulevard from Spencer Avenue to Route 85 attached hereto as Exhibit A.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California on the 7<sup>th</sup> day of April, 2015 by the following vote:

**COUNCIL MEMBERS:**

AYES: Steve Leonardis, Rob Rennie, Barbara Spector, Mayor Marcia Jensen

NAYS:

ABSENT: Marico Sayoc

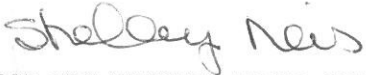
ABSTAIN:

SIGNED:

A handwritten signature in cursive script, appearing to read "Marcia Jensen", with a long horizontal flourish extending to the right.

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

A handwritten signature in cursive script, appearing to read "Shelley News", with a long horizontal flourish extending to the right.

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

**RESOLUTION 2002 - 175**

**RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS  
ADOPTING THE TOWN'S COMMUNITY BENEFIT POLICY**

**WHEREAS**, that the Town of Los Gatos Town Council has determined that a written policy clarifying the requirement for a community benefit offering is necessary (General Plan Implementing Section L.I.1.8); and

**WHEREAS**, the Town of Los Gatos does not currently have a written policy clarifying the Town Resolution 1991-174 and Resolution 1993-62, requirements for a community benefit offering, and

**WHEREAS**, the Resolution 1991-174 (Traffic Impact Policy) and Resolution 1993-62 (Development Policy for Infill Projects) require a community benefit offering for certain projects; and

**WHEREAS**, adoption of such policies will help provide clear direction to developers processing development applications (General Plan Implementing Section L.I.1.8); and

**WHEREAS**, the Planning Commission recommended approval of the draft Community Benefit Policy on September 25, 2002; and

**THEREFORE BE IT RESOLVED**: the Town Council of the TOWN OF LOS GATOS does hereby adopt the Community Benefit Policy attached hereto as Exhibits A.

**EXHIBIT A**

**PASSED AND ADOPTED** at a regular meeting of the Town Council held on the 4<sup>th</sup> day of November 2002, by the following vote:

**COUNCIL MEMBERS:**

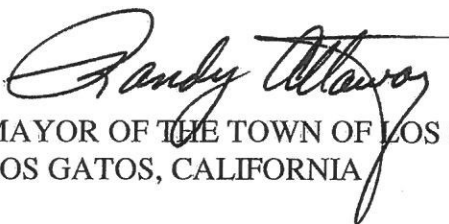
**AYES:** Steven Blanton, Sandy Decker, Joe Pirzynski,  
Mayor Randy Attaway

**NAYS:** Steve Glickman

**ABSENT:** None

**ABSTAIN:** None

**SIGNED:**

  
MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

**ATTEST:**

  
CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

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**TOWN COUNCIL POLICY  
TOWN OF LOS GATOS**

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Subject: Community Benefit Policy

Enabling Action:  
2002- 175

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Approved:  
Recommended By Planning Commission  
on 9/25/02

Effective  
Date: November 4, 2002

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**PURPOSE:**

The intent of the Community Benefit Policy is to provide the Town a means to support projects that are beneficial and desirable to the community, but may have certain negative impacts. These impacts are generally unavoidable or unintended consequences of new development, such as traffic, that cannot be entirely avoided through standard conditions of approval. Negative impacts may be overridden by benefits offered to the Town by an applicant.

A community benefit offering is intended to add to the merits of a project. It is not intended to create a means for applicants to transform undesirable projects into projects that appear to be desirable due to their community benefit. Rather, it is intended to provide applicants, who are already proposing projects that are generally beneficial to the Town, a means of offsetting the negative impacts of these projects.

A community benefit offering shall be something that otherwise would not have been required by law or as a condition of approval for a project. A specific community benefit offering cannot be compelled by the Town. It must be proposed by the applicant in addition to the standard conditions of approval and any required mitigation measures for a project. Mitigation measures such as fees, dedications, or easements required by the Town do not qualify as a community benefit.

The following policy shall be used by the deciding body when reviewing any application that: (1) causes an increase of 5 peak hour trips per Resolution 1991-174; or (2) is considered an infill project per Resolution 1993-62.

**GENERAL POLICY:**

1. The applicant shall propose the community benefit offering, and is responsible for demonstrating that the community benefit being offered is appropriate to offset a project's impacts. The applicant shall submit a letter of justification and any other supporting documentation necessary to clearly outline the proposed community benefit. .

Subject: Draft Community Benefit Policy

September 25, 2002

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2. The community benefit shall be offered in addition to the standard mitigation measures required in the conditions of approval and in excess of any Town's codes and regulations including California Environmental Quality Act (CEQA). However, a specific community benefit cannot be compelled by the Town.
3. The community benefit offering does not need to correlate directly with the project or with the project's impacts. The benefit may be off-site or unrelated to the project.
4. The deciding body shall determine whether or not the community benefit being offered sufficiently outweighs the cumulative impacts caused by the project. Both tangible impacts (quantitative) and the intangible impacts (non-quantitative) will be considered.
5. The deciding body shall weigh the value of the proposed community benefit based on the desirability of the benefit at the time the project is being proposed or based on perceived future value or need.
6. The Town's values, economy, and character may change over time, therefore a previously accepted community benefit does not set a precedence or guarantee that the same community benefit will be accepted in the future. A previously accepted benefit may be drawn upon as an example, but might not be accepted as a benefit in the future if the Town determines that the benefit is no longer necessary, valuable, or desirable. Applicants should refer to the Town's official needs assessment list or to a list of previously accepted community benefits. (Please see attached lists)
7. Tax revenue generation resulting from the proposed project cannot be used as the project's sole community benefit. Tax revenue generation may be used as a community benefit in addition to another proposed benefit. It may also be used in the context of increasing the overall value of the project to the Town if it contributes to the Town's long term financial stability.

SPECIFIC POLICY:

The following is a partial list of examples that an applicant may draw upon when seeking to create community benefit for a project:

- additional BMP units or equally affordable housing units
- improved traffic circulation or reduction of traffic
- street or neighborhood improvements
- historic preservation or restoration
- public art
- open space, conservation, or scenic easements and other dedications

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- bike/walking trails
- mitigation or elimination of an existing problem
- restoration of a riparian habitat or water course
- a demonstrated unique or desirable use for the Town

**DEFINITION:**

**Community Benefit:** An offering of benefit to the Town proposed by an applicant, in addition to the standard mitigation measures required by the Town, that overrides certain negative impacts resulting from an infill project or a project that generates more than five (5) peak hour trips.

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**TOWN COUNCIL POLICY  
TOWN OF LOS GATOS**

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Subject: Community Benefit Policy

Enabling Action:  
2002- 175

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Approved:  
Recommended By Planning Commission  
on 9/25/02

Effective  
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**PURPOSE:**

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RESOLUTION 1994-78

RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS ADOPTING  
STANDARDS FOR OUTDOOR RESTAURANT SEATING

WHEREAS, outdoor restaurant seating can be an enjoyable experience, the orderly placement and aesthetics must be regulated to protect the public health, safety and welfare.

RESOLVED: Exhibit A, the Standards for Outdoor Restaurant Seating are adopted.

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 6th day of June, 1994, by the following vote:

COUNCIL MEMBERS:

AYES: Joanne Benjamin, Steven Blanton, Linda Lubeck, Patrick O'Laughlin,  
Mayor Randy Attaway

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED: /s/ Randy Attaway  
MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

/s/ Marian V. Cosgrove  
CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

## STANDARDS FOR OUTDOOR RESTAURANT SEATING

1. Outdoor seating is prohibited on public property. Outdoor seating may be allowed on private property with a conditional use permit.
2. A physical delineation in the form of landscaping or planters is required to separate public and private property. The height of the separation shall be a minimum of three feet but no higher than four feet. The physical design and plant material should compliment the design of the building and prevent passing or carrying alcoholic beverages outside the restaurant seating area. Plant material shall be alive.
3. When alcoholic beverages are permitted in outdoor seating areas that are immediately adjacent to a public pedestrian way, the landscape separation shall be designed to clearly suggest that alcohol is not allowed outside the restaurant seating area.
4. For outdoor seating areas immediately adjacent to the public right-of-way, a hold harmless agreement shall be recorded releasing the Town from any liability related to the outdoor seating.
5. When alcoholic beverage service is permitted outside, a restaurant employee shall seat patrons.

RESOLUTION 1995-105

RESOLUTION OF THE TOWN COUNCIL OF THE  
TOWN OF LOS GATOS AMENDING THE INTERIM POLICIES  
FOR DEVELOPMENT APPLICATIONS ALONG LOS GATOS  
BOULEVARD FROM SPENCER AVENUE TO ROUTE 85

WHEREAS, the Town of Los Gatos is involved in a major study of Los Gatos Boulevard;  
and

WHEREAS, applicants are anxious to move forward with development plans which may  
or may not be consistent with the standards and policies that will result from the Los Gatos  
Boulevard Design Study.

RESOLVED, the Town Council of the Town of Los Gatos hereby establishes the following  
interim policies for development applications along Los Gatos Boulevard from Spencer Avenue to  
Route 85.

1. Each applicant shall be responsible for reviewing the proceedings of the Los Gatos  
Boulevard Design Charette in the booklet titled "A Vision for Los Gatos Boulevard" and  
determining how those proceedings, the issues outlined during the Charette, and the concerns of the  
residents, businesses, and property owners along and behind Los Gatos Boulevard affect applicant's  
proposed project.

2. Each application shall include a written description of how the proposed project and the  
process that was used to refine the proposal are consistent with the Los Gatos Boulevard Plan:  
Mission, Goals and Objectives. The description shall also address the issues outlined in "A Vision  
for Los Gatos Boulevard". This description should be as detailed as necessary to provide an in-depth  
explanation. The Town expects that each application will be a part of a dynamic study process for  
the Boulevard.

3. Applicants are encouraged to consider pre-application meetings with residents, businesses,  
and property owners along and behind Los Gatos Boulevard, so that they may better understand the  
questions and concerns that exist. Results of any such meetings can be included as part of the  
description provided under Paragraph 2.

4. Applicants shall be advised of the schedule and status of the Los Gatos Boulevard Design Study at the time they file an application, and applicants are encouraged to become active participants in that study process.

**FURTHER RESOLVED**, Resolution 1995-9 is hereby rescinded.

**PASSED AND ADOPTED** at a regular meeting of the Town Council held on the 7th day of August, 1995, by the following vote:

COUNCIL MEMBERS:

AYES: Randy Attaway, Joanne Benjamin, Steven Blanton, Linda Lubeck,  
Mayor Patrick O'Laughlin

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED: /s/ Patrick O'Laughlin  
MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

/s/ Marian V. Cosgrove  
CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA